

Application No. 10/635,864  
Docket No. 1999U026.US-CON3  
Reply to Office Action Dated September 15, 2005

### Remarks

#### **Double Patenting**

The Applicant traverses this rejection. First, the Applicant contends that the claims in the current case and those of U.S.S.N 10/772,823 are patentably distinct and in particular, not obvious over the claims of U.S.S.N. 10/772,823. The claims in the 10/772,823 case are directed to "unprocessed, untreated granular bimodal polyolefin" characterized in part by "wherein sieved neat polymer fractions obtained from 35, 60 and 120 mesh sieve sizes have  $I_2$  values that are within 40% of one another". The claims in the present case, on the other hand, are directed to a "bimodal polyethylene copolymer" characterized by certain features of a finished product (such as pipes and films as in the dependent claims). There is no suggestion in the current claims of the properties of various particle sizes of the polymer. Thus, it cannot be said that the claims of the U.S.S.N. 10/772,823 application are related to the present claims as a species.

Second, Applicant contends that Double Patenting rejections were intended to apply to later filed applications with respect to earlier filed applications. The present case is an earlier filed application.

It should be noted that the present case will necessarily lapse prior to the patent that issues from U.S.S.N. 10/772,823. Thus, there could be no "extension of the 'right to exclude'" in the present case, which is what the Double Patenting type rejection was meant to prevent.

The Applicant thus requests that this rejection be withdrawn.

#### **Section 102/103 Rejection**

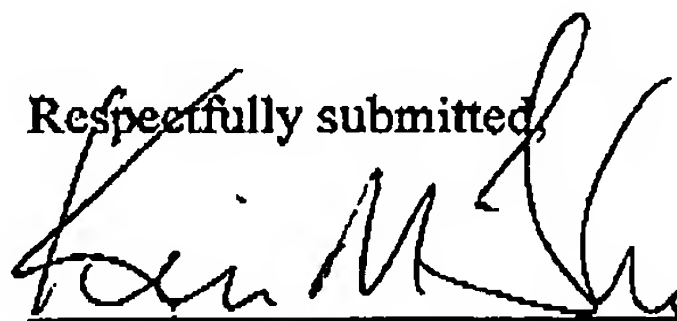
The rejection of Claims 1 through 13 under 35 U.S.C. § 102(b) as anticipated by, or obvious over *Martin et al.* (US 5,306,775) was maintained. The Applicant traverses this rejection.

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In particular, the nature of the present invention, as reflected in the Declaration submitted on March 1, 2005, is further elucidated by adding the term —copolymer— after “polyethylene”. This is supported in the specification at, for example, paragraph [0105]. This is also consistent with the claim limitation “comprising ethylene derived units and units derived from at least one of a C<sub>4</sub> to C<sub>12</sub> olefin”, that is, the whole composition is a copolymer of ethylene derived units and a comonomer.

*Martin* does not disclose or suggest a bimodal composition that is completely a “copolymer” as is claimed and demonstrated. Thus, Applicant requests that these rejections be withdrawn.

Respectfully submitted,



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